

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4112 of 1998

With

SPECIAL CIVIL APPLICATIONS NO. 4113, 4115. 4116, 4117,
4119, 4123 and 4125 of 1998.

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

and

MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? No @nt

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2. To be referred to the Reporter or not? No

3. Whether Their Lordships wish to see the fair copy
of the judgement? No

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No @@ m
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5. Whether it is to be circulated to the Civil Judge?
No

PATEL KARSANBHAI GORDHANBHAI

Versus

STATE OF GUJARAT

Appearance:

MRS RANJAN B PATEL for Petitioner
MR P.G.DESAI, GOVERNMENT PLEADER for Respondents

CORAM : MR.JUSTICE J.M.PANCHAL and
 MR.JUSTICE M.H.KADRI

Date of decision: 25/01/99

ORAL JUDGEMENT

(Per : Panchal, J.)

Mr. B.S.Patel, learned Counsel, who appears on behalf of the petitioner in all these petitions, seeks permission of the Court to delete respondents no.3 & 4 from the above-numbered petitions. In view of the averments made in the petitions and the reliefs claimed, permission as prayed for is granted. Names of respondents no.3 & 4 stand deleted from the above-numbered petitions.

Rule. Mr. P.G.Desai, learned Government Pleader waives service of notice of rule on behalf of respondents no.1 & 2. At the joint request of learned advocates appearing for the parties, the petitions are take-up for final hearing today.

As the petitions involve common question of fact and law, we propose to dispose of them by this common judgment.

The lands belonging to the petitioners were acquired for the purpose of rehabilitation of oustees of Narmada Yojna. The learned Government Pleader on instructions has given particulars regarding lands which were owned by the petitioners as well as the villages in which they were situated. The learned Government Pleader has also given particulars regarding different awards

made on different dates in respect of the lands of the petitioners. Those particulars are as under:-

No. of Application.	Spl. Civil.	Name of petitioner	Name of village	Name of land.	Block No.	Date of award
1	2	3	4	5		
4112/98		-Karsanbhai Gordhanbhai Patel	Fata	18		6.1.97
4113/98		-Ramanbhai Ranchhodbhai	Malu	166		5.8.97
4115/98		-Mathurbhai Gokalbhai	Malu	181		12.6.97
4116/98		-Shivabhai Madhabhai	Malu	167		5.8.97
4117/98		-Bhailal Manilal	Malu	108 Paiki		5.8.97
4119/98		-Indravadan Gokalbhai	Sanoli	96		9.6.97
4120/98		-Vinodkumar Nagjibhai	Sanoli	90		9.6.97
4121/98		-Jagabhai Vigabhai Baria	Kudi	95 paiki		12.2.96
		Unchakalam				
4123/98		-Dahyabhai Maganbhai	Malu	165		5.8.97
4125/98		-Tulsidas Ramjibhai Patel	Laved	115		12.2.96
		(Patara)				

In all these petitions, the respective petitioner through learned advocate, made application to respondent no.2 requiring him to refer the matter to District Court, Vadodara for determination of compensation. The respondent no.2 by an order dated December 1, 1995 has rejected the prayer made by respective petitioner to refer the matter to the Court on the ground that the petitioners did not furnish better particulars of the lands acquired. The said order is produced by the respective petitioner at Annexure-A to each petition. Mr. P.G.Desai, learned Government Pleader on instructions states at the bar that the reference applications are rejected because consent award was made by respondent no.2 under the provisions of Section 11(2) of the Land Acquisition Act, 1894. The order at Annexure-A does not indicate that the prayer made by the petitioner in each petition to refer the matter to District Court, Vadodara for the purpose of determination of compensation is rejected on the ground that consent award was made by respondent no.2 under section 11(2) of the Act. On the contrary, the impugned order shows that the prayer made by the petitioners to refer the matter to Court for determination of compensation, is rejected on the ground that each petitioner failed to furnish better particulars of his land which was acquired. Therefore,

the order produced at Annexure-A in each petition deserves to be set aside with appropriate direction to respondent no.2 to consider the application submitted by each petitioner for making reference to the Court in accordance with law.

For the foregoing reasons, all the petitions are partly allowed. Order at Annexure-A which is produced in each petition, is hereby set aside and quashed. The respondent no.2 is directed to reconsider the application submitted by each petitioner seeking reference to the Court for the purpose of determination of compensation on merits and in accordance with law. The respondent no.2 shall reconsider the applications as early as possible and preferably within three months from today. Rule is made absolute in each petition accordingly, with no order as to costs.

(patel)